

APPEAL NO. 033019
FILED JANUARY 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 30, 2003. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____, and that the claimant did not have disability from March 12, 2003, to the date of the CCH. The claimant appealed on a sufficiency of the evidence basis. The respondent (carrier) responded, urging affirmance. The Appeals Panel reversed the hearing officer's decision and remanded for reconstruction of the record because the tape was not audible. Texas Workers' Compensation Commission Appeal No. 032247, decided October 7, 2003. An exhibit entitled "reconstruction of the record" is included in evidence on remand. The hearing officer issued a decision on remand again determining that the claimant did not sustain a compensable injury and that the claimant did not have disability. The claimant again appealed on a sufficiency of the evidence basis. The carrier responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

Affirmed.

The reconstruction of the record states that the claimant said that: (1) he was injured while changing tires at work on July 2, 2001; (2) the claimant returned to work a few weeks later; and (3) on _____, he was using an air gun when his torso and arms began shaking, his neck began to hurt, and his arms became weak. In an August 30, 2001, letter, Dr. S said he took the claimant off work on August 3, 2001, but that he was taken off work for the July 2, 2001, injury. Dr. S said the claimant sustained a new injury to his cervical and upper thoracic spine on _____.

The questions of whether the claimant sustained a compensable injury and whether he had disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The true corporate name of the insurance carrier is **ARCH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge